

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Assistant Commissioner for Patents, Washington, D.C. 20231 on July 29, 1998.

By: Scott W. Kelley
Date
Scott W. Kelley Reg. No. 30,762
July 29, 1998
Date of Signature

PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)
ROBERT R. REAVER, ET AL.)
Serial No. 08/428,918)
Filed: April 25, 1995)
For: COMBINATION FLY)
SWATTER AND INSECT)
TRAP)

Group Art Unit: 3616
Examiner: Rowan, K.

AUG 10 1998
OFFICE OF PETITIONS
DEPUTY A/C PATENTS

Woodland Hills, California
July 29, 1998

PETITION TO REVIVE UNAVOIDABLY ABANDONED
APPLICATION UNDER 37 C.F.R. §1.137(a)

08/428,918 REAVER 00000047 08428918

-OR-

55.00 DP

PETITION FROM AN EXAMINER'S HOLDING
OF ABANDONMENT UNDER 37 C.F.R. §1.81

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to a NOTICE OF ABANDONMENT dated July 21,
1998, in the above-identified application, Applicants respectfully petition for

Serial No. 08/428,918

revival of an unavoidably abandoned application under 37 C.F.R. §1.137(a) -
or - petition from an express holding of abandonment under 37 C.F.R. §1.181.

As will be explained below, no Response is necessary to continue
the prosecution of the application (everything required is presently on file).

Enclosed is the fee of \$55.00 as required under 37 C.F.R. §1.17(l).

By way of review of the status of the application, a Notice of
Allowability issued September 5, 1996 (Exhibit A). Applicants subsequently
filed formal drawings on September 10, 1996 (Exhibit B). A Status Letter was
mailed to the Patent and Trademark Office on September 25, 1996 (Exhibit C),
the same day a Notice of Allowance and Issue Fee Due was mailed from the
U.S. Patent and Trademark Office (Exhibit D). Applicants paid the issue fee on
December 4, 1996 (Exhibit E).

On December 16, 1996 Applicants received a communication from
the Patent and Trademark Office informing them that the application had been
withdrawn from issue pursuant to 37 C.F.R. §1.313 (Exhibit F). Another Status
Letter was sent to the Patent and Trademark Office on June 17, 1997 (Exhibit
G). An Office Action issued June 18, 1997 (Exhibit H) rejecting each of the
pending claims 1-19 due to an allegedly defective reissue declaration. In
response, a Supplemental Declaration of Robert R. Reaver and Carol Reaver
was filed under a Certificate of Mailing dated August 27, 1997 (Exhibit I). An
Advisory Action issued September 23, 1997 advising Applicants: "The
Supplemental Declaration does not address all the errors and when they were
discovered and how they were discovered." (Exhibit J). A Second

Serial No. 08/428,918

Supplemental Declaration of Robert R. Reaver and Carol Reaver was then filed under a certificate of mailing dated October 16, 1997 (Exhibit K).

On November 19, 1997 an Advisory Action (Exhibit L) was mailed in response to Applicant's October 16, 1997 Response. The Advisory Action stated that "The fact that different models have been constructed after issuance of U.S. 5,207,018 and do not read on any of the patent claims is not an error in the original patent." Upon receipt of the November 19, 1997 Advisory Action, the undersigned, Applicant's attorney, attempted to telephone Kurt Rowan beginning November 26, 1997. At least three or four different attempts were made to reach Examiner Rowan, and the telephone calls were finally returned on December 11, 1997. The undersigned explained to Examiner Rowan that Applicants were not under final rejection as indicated in the Advisory Action. Examiner Rowan agreed that this was the case, and that the prior communications were an error on the PTO's part. The undersigned further explained to Examiner Rowan his concerns with the remarks in paragraph 4 of the November 19th Advisory Action. In summary, it was explained that the error in the original patent was that Applicant's had claimed less than they were entitled to claim. It appeared from the Advisory Action that the explanation for how the error was discovered was confused with the actual error itself. Examiner Rowan was told that it was Applicant's belief that the Declaration was sufficient, and he was asked to reexamine it in that regard. Examiner Rowan stated that he would be discussing the case with his

Serial No. 08/428,918

supervisor, and that the Applicants should expect to receive another Office Action.

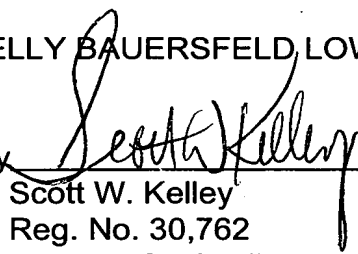
After failing to receive any further word regarding the application, a Status Letter was mailed to the Patent and Trademark Office on June 10, 1998 (Exhibit M). Upon receipt of the Notice of Abandonment dated July 21, 1998, Applicant's attorney attempted to reach Examiner Rowan at his last known telephone number (703) 308-2321. A recording stated that this was an unassigned call forwarding number.

It is submitted that the Notice of Abandonment issued in error in that Applicant did respond promptly to the November 19, 1997 Advisory Action by discussing the case with Examiner Rowan on December 11, 1997. Further, the November 19, 1997 Advisory Action issued in error, since Applicants are not under final rejection. Moreover, the papers currently on file meet all statutory requirements and the case is and has been in condition for allowance.

Respectfully submitted,

KELLY BAUERSFELD LOWRY & KELLEY, LLP

By



Scott W. Kelley
Reg. No. 30,762
Attorney for Applicant

SWK:sbn
Enclosure
6320 Canoga Avenue, Suite 1650
Woodland Hills, CA 91367
(818) 347-7900

RECEIVED
SEP 09 1996
KELLY, BAUERSFELD & LOWRY



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/428,918	04/25/95	REAVER	R REAV-35008

ROWAN, K EXAMINER

SCOTT W KELLEY
KELLY BAUERSFELD AND LOWRY
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS, CA 91367

32M1/0905

ART UNIT	PAPER NUMBER
----------	--------------

3205

DATE MAILED: 09/05/96

NOTICE OF ALLOWABILITY

PART I.

1. ☒ This communication is responsive to Amendment of June 3, 1996
2. ☒ All the claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice Of Allowance And Issue Fee Due or other appropriate communication will be sent in due course.
3. ☒ The allowed claims are 1-19
4. ☐ The drawings filed on _____ are acceptable.
5. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received. ☐ not been received. ☐ been filed in parent application Serial No. _____, filed on _____.
6. ☐ Note the attached Examiner's Amendment.
7. ☐ Note the attached Examiner Interview Summary Record, PTOL-413.
8. ☐ Note the attached Examiner's Statement of Reasons for Allowance.
9. ☐ Note the attached NOTICE OF REFERENCES CITED, PTO-892.
10. ☐ Note the attached INFORMATION DISCLOSURE CITATION, PTO-1449.

PART II.

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE THREE MONTHS FROM THE "DATE MAILED" indicated on this form. Failure to timely comply will result in the ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

1. ☐ Note the attached EXAMINER'S AMENDMENT, or NOTICE OF INFORMAL APPLICATION, PTO-152, which discloses that the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.
2. ☒ APPLICANT MUST MAKE THE DRAWING CHANGES INDICATED BELOW IN THE MANNER SET FORTH ON THE REVERSE SIDE OF THIS PAPER.
- a. ☒ Drawing informalities are indicated on the NOTICE RE PATENT DRAWINGS, PTO-948, attached hereto or to Paper No. 5. CORRECTION IS REQUIRED.
- b. ☐ The proposed drawing correction filed on _____ has been approved by the examiner. CORRECTION IS REQUIRED.
- c. ☐ Approved drawing corrections are described by the examiner in the attached EXAMINER'S AMENDMENT. CORRECTION IS REQUIRED.
- d. ☒ Formal drawings are now REQUIRED.

Any response to this letter should include in the upper right hand corner, the following information from the NOTICE OF ALLOWANCE AND ISSUE FEE DUE: ISSUE BATCH NUMBER, DATE OF THE NOTICE OF ALLOWANCE, AND SERIAL NUMBER.

Attachments:

- Examiner's Amendment
- Examiner Interview Summary Record, PTOL-413
- Reasons for Allowance
- Notice of References Cited, PTO-892
- Information Disclosure Citation, PTO-1449

- Notice of Informal Application, PTO-152
- Notice re Patent Drawings, PTO-948
- Listing of Bonded Draftsmen
- Other

EXHIBIT A

Kurt Rowan
KURT ROWAN
PRIMARY EXAMINER
GROUP 3200

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner of Patents and Trademarks, Washington, D.C. 20231 on September 10, 1996

By:

Scott W. Kelley Reg. No. 30,762

September 10, 1996

Date of Signature



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	Group Art Unit: 3205
ROBERT R. REAVER, ET AL.	)	Examiner: Rowan, K.
Serial No. 08/428,918)	
Filed: April 25, 1995)	
For: COMBINATION FLY)	
SWATTER AND INSECT)	
TRAP)	

Woodland Hills, California
September 10, 1996

SUBMISSION OF FORMAL DRAWINGS UNDER 37 C.F.R. §1.84

Hon. Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Sir:

Please substitute the enclosed formal drawings for the informal drawings originally filed in the above-identified application. For the convenience of the Examiner, these drawings are submitted in triplicate photocopy as expressly provided by MPEP 608.02.

Respectfully submitted,

KELLY BAUERSFELD & LOWRY

By:

Scott W. Kelley
Reg. No. 30,762
Attorney for Applicants

SWK:sbn
Enclosures

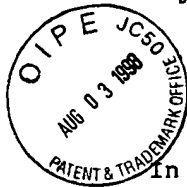
6320 Canoga Avenue
Suite 1650
Woodland Hills, CA 91367
(818) 347-7900

EXHIBIT B

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner of Patents and Trademarks, Washington, D.C. 20231 on September 25, 1996

By: Scott W. Kelley
Scott W. Kelley, Reg. No. 30,762

September 25, 1996
Date of Signature



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	Group Art Unit: 3205
ROBERT R. REAVER, ET AL.	)	Examiner: Rowan, K.
Serial No. 08/428,918)	
Filed: April 25, 1995)	
For: COMBINATION FLY)	
SWATTER AND INSECT TRAP)	

Woodland Hills, California
September 25, 1996

STATUS LETTER

Hon. Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Attention: Director of Patents
Examining Operation

Sir:

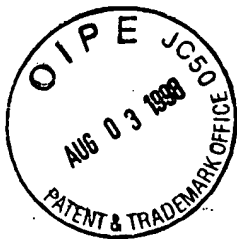
Please advise us of the status of the above-identified patent application. The last paper in our file is a Notice of Allowability dated September 5, 1996 (copy enclosed). No Notice of Allowance and Issue Fee Due has been received.

Respectfully submitted,
KELLY, BAUERSFELD & LOWRY
By: Scott W. Kelley
Scott W. Kelley
Registration No. 30,762
Attorney for Applicants

SWK:sbn
Enclosure

6320 Canoga Avenue
Suite 1650
Woodland Hills, CA 91367
Tel: (818) 347-7900

EXHIBIT C



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: Box ISSUE FEE
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

32M1/0925

SCOTT W KELLEY
KELLY BAUERSFELD AND LOWRY
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS CA 91367

**NOTICE OF ALLOWANCE
AND ISSUE FEE DUE**

☐ Note attached communication from the Examiner

☐ This notice is issued in view of applicant's communication filed _____

SERIES CODE/SERIAL NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
08/428,918	04/25/95	019	ROWAN, K. 3205	09/25/96
First Named Applicant: BEAVER, ROBERT R.				

TITLE OF INVENTION: COMBINATION FLY SWATTER AND INSECT TRAP

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
BEAV-35008	043-137.009	297	UTILITY	YES	\$625.00	12/26/96

**THE APPLICATION IDENTIFIES ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT.
PROSECUTION ON THE MERITS IS CLOSED.**

**THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS
APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.**

HOW TO RESPOND TO THIS NOTICE:

I. Review the SMALL ENTITY Status shown above.
If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is changed, pay twice the amount of the FEE DUE shown above and notify the patent and Trademark Office of the change in status, or
- B. If the Status is the same, pay the FEE DUE shown above.

If the SMALL ENTITY is shown as NO:

- A. Pay FEE DUE shown above, or
- B. File verified statement of Small Entity Status before, or with, pay of 1/2 the FEE DUE shown above.

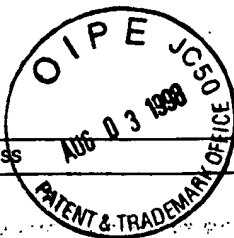
II. Part B of this notice should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B should be completed and returned. If you are charging the ISSUE FEE to your deposit account, Part C of this notice should also be completed and returned.

III. All communications regarding this application must give series code (or filing date), serial number and batch number. Please direct all communication prior to issuance to Box ISSUE FEE unless advised to contrary.

IMPORTANT REMINDER: Patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

EXHIBIT D

3. YOUR COPY



1. CORRESPONDENCE ADDRESS

32M1/0925

SCOTT W KELLEY
 KELLY BAUERSFELD AND LOWRY
 6320 CANOGA AVENUE
 SUITE 1650
 WOODLAND HILLS CA 91367

SERIES CODE/SERIAL NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
08/428,918	04/25/95	019	ROWAN, K	3205 09/25/96
First Named Applicant REAVER, ROBERT R.				

TITLE OF INVENTION COMBINATION FLY SWATTER AND INSECT TRAP

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
3 REAV-35098	043-137-000	797	UTILITY	YES	\$625.00	12/26/96

DO NOT USE THIS SPACE

2a. The following fees are enclosed:

☐ Issue Fee ☐ Advance Order - # of Copies _____

2b. The following fees should be charged to:

DEPOSIT ACCOUNT NUMBER _____

☐ Issue Fee ☐ Advance Order - # of Copies _____

☐ Any Deficiencies in Enclosed Fees

The COMMISSIONER OF PATENTS AND TRADEMARKS is requested to apply the Issue Fee to the application identified above.

(Authorized Signature)

NOTE: The Issue Fee will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the Patent and Trademark Office.

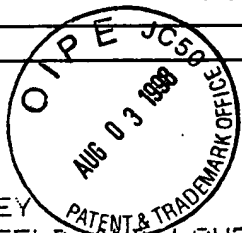
2. TRANSMIT THIS FORM WITH PART B WHEN AUTHORIZING USE OF A DEPOSIT ACCOUNT

PART B—ISSUE FEE TRANSMITTAL

MAILING INSTRUCTIONS: This form should be used in transmitting the ISSUE FEE. Blocks 2 through 6 should be completed where appropriate. All further correspondence including the Issue Fee Receipt, the Patent, advance orders and notification of maintenance fees will be mailed to addressee entered in Block 1 unless you direct otherwise, by: (a) specifying a new correspondence address in Block 3 below; or (b) providing the PTO with a separate "FEE ADDRESS" for maintenance fee notifications with the payment of Issue Fee or thereafter. See reverse for Certificate of Mailing.

1. CORRESPONDENCE ADDRESS

SCOTT W KELLEY
KELLY BAUERSFELD AND LOWRY
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS CA 91367



32M1/0925

2. INVENTOR(S) ADDRESS CHANGE (Complete only if there is a change)

INVENTOR'S NAME

Street Address

City, State and ZIP Code

CO-INVENTOR'S NAME

Street Address

City, State and ZIP Code

☐ Check if additional changes are on reverse side

RECEIVED

SEP 27 1998

KELLY, BAUERSFELD & LOWRY

SERIES CODE/SERIAL NO.

FILING DATE

TOTAL CLAIMS

EXAMINER AND GROUP ART UNIT

DATE MAILED

08/428,918

04/25/95

019

ROWAN, K

3205

09/25/95

First Named
Applicant

REAVES,

ROBERT R.

TITLE OF
INVENTION COMBINATION FLY SWATTER AND INSECT TRAP

ATTY'S DOCKET NO.

CLASS-SUBCLASS

BATCH NO.

APPLN. TYPE

SMALL ENTITY

FEE DUE

DATE DUE

3

REAV-35008

043-137.000

Z97

UTILITY

YES

\$625.00

12/26/96

3. Correspondence address change (Complete only if there is a change)

4. For printing on the patent front page, list the names of not more than 3 registered patent attorneys or agents OR, alternatively, the name of a firm having as a member a registered attorney or agent. If no name is listed, no name will be printed.

1. KELLY, BAUERSFELD

2. & LOWRY

3.

DO NOT USE THIS SPACE

5. ASSIGNMENT DATA TO BE PRINTED ON THE PATENT (print or type)

(1) NAME OF ASSIGNEE:

(2) ADDRESS: (CITY & STATE OR COUNTRY)

A. ☒ This application is NOT assigned.

☐ Assignment previously submitted to the Patent and Trademark Office.

☐ Assignment is being submitted under separate cover. Assignments should be directed to Box ASSIGNMENTS.

PLEASE NOTE: Unless an assignee is identified in Block 5, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the PTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

6a. The following fees are enclosed:

☒ Issue Fee ☒ Advance Order - # of Copies 10

6b. The following fees should be charged to:

DEPOSIT ACCOUNT NUMBER

(ENCLOSE PART C)

☐ Issue Fee

☐ Advance Order - # of Copies

☐ Any Deficiencies in Enclosed Fees

The COMMISSIONER OF PATENTS AND TRADEMARKS is requested to apply the Issue Fee to the application identified above.

(Authorized Signature)

Scott W. Kelley, Reg. No. 30,762

(Date) 12/4/96

NOTE: The Issue Fee will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the Patent and Trademark Office.

EXHIBIT A

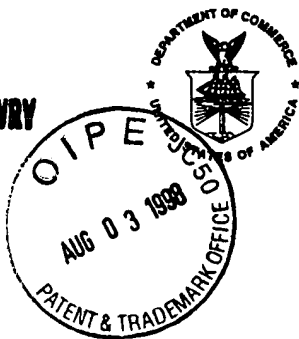
1. TRANSMIT THIS FORM WITH FEE CERTIFICATE OF MAILING ON REVERSE

RECEIVED

DEC 16 1996

KELLY, BAUERSFELD & LOWRY

DEC 13 1996



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 9

In re Application of
Robert R. Reaver
Serial No. 08/428,918
Filed: April 25, 1995
For: COMBINATION FLY SWATTER
AND INSECT TRAP

WITHDRAWAL FROM
ISSUE

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

E. Rollins-Cross, Director
Patent Examining Group 3200

Scott W. Kelley
Kelley, Bauersfeld and Lowry
6320 Canoga Avenue, Suite 1650
Woodland Hills, CA 91367

cc: Allowed Files, PK3-915A
Drafting Branch, PK3-915

EXHIBIT F

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Assistant Commissioner for Patents, Washington, D.C. 20231 on June 17, 1997.

By: Scott W. Kelley
Scott W. Kelley, Reg. No. 30,762
June 17, 1997
Date of Signature

PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	Group Art Unit: 3205
)	
ROBERT R. REAVER, ET AL.	)	Examiner: Rowan, K.
)	
Serial No. 08/428,918)	
)	
Filed: April 25, 1995)	
)	
For: COMBINATION FLY)	
SWATTER AND INSECT)	
TRAP)	

Woodland Hills, California
June 17, 1997

STATUS LETTER

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Please advise us of the status of the above-identified patent application. The last paper in our file is a WITHDRAWAL FROM ISSUE, which is dated December 13, 1996 (copy enclosed).

Respectfully submitted,

KELLY BAUERSFELD LOWRY & KELLEY, LLP

By: Scott W. Kelley
Scott W. Kelley
Reg. No. 30,762
Attorney for Applicant

SWK:sbn
Enclosure

6320 Canoga Avenue
Suite 1650
Woodland Hills, CA 91367
(818) 347-7900

EXHIBIT G.



Catindand.sno



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
08/428,918	04/25/95	REAVES	R REAV-35008

SCOTT W KELLEY
KELLY BAUERSFELD AND LOWRY
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS CA 91367

32M1/148

RECEIVED
JUN 23 1997
KELLY BAUERSFELD & LOWRY

EXAMINER

ROWAN, K	PAPER NUMBER
ART UNIT	

3205

10

DATE MAILED: 06/18/97

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-19 is/are pending in the application.
- ☐ Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-19 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

EXHIBIT H

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Assistant Commissioner for Patents, Washington, D.C. 20231 on August 27, 1997.

By: Scott W. Kelley
Scott W. Kelley, Reg. No. 30,762
August 27, 1997
Date of Signature



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	Group Art Unit: 3205
)	
ROBERT R. REAVER, ET AL.	)	Examiner: Rowan, K.
)	
Serial No. 08/428,918)	
)	
Filed: April 25, 1995)	
)	
For: COMBINATION FLY)	
SWATTER AND INSECT)	
TRAP)	

Woodland Hills, California

SUPPLEMENTAL DECLARATION OF ROBERT
R. REAVER AND CAROL REAVER

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

1. As the below-named inventors, we hereby declare that:
2. Our residence, post office address and citizenship are as stated below next to our names.
3. We believe we are the original, first and joint inventors of the subject matter which is described and claimed in U.S. Patent No. 5,207,018, granted May 4, 1993, and in reissue patent application serial number 08/428,918 filed April 25, 1995.

EXHIBIT I

RECEIVED
SEP 25 1997
KELLY, BAUERSFELD & LOWRY



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/428,918	04/25/95	REAVES	REAV-35008

SCOTT W KELLEY
KELLY BAUERSFELD AND LOWRY
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS CA 91367

C2M1/0923

EXAMINER	
ROWAN, K	
ART UNIT	PAPER NUMBER
3205	17

DATE MAILED: 09/23/97

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- a) ☐ is extended to run _____ or continues to run _____ from the date of the final rejection
- b) ☒ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☐ Applicant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed Sept 2 has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- a. ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
- b. ☐ They raise new issues that would require further consideration and/or search. (See Note).
- c. ☐ They raise the issue of new matter. (See Note).
- d. ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- e. ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE:

2. ☐ Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☒ Upon the filing an appeal, the proposed amendment ☒ will be entered ☐ will not be entered and the status of the claims will be as follows:

Claims allowed: _____
Claims objected to: _____
Claims rejected: 1-19

However;

☐ Applicant's response has overcome the following rejection(s): _____

4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because the supplemental declaration does not address all the errors and when they were discovered and how they were discovered
5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☐ Other

EXHIBIT J

Kurt Rowan
KURT ROWAN
PRIMARY EXAMINER
GROUP 3200

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Assistant Commissioner for Patents, Washington, D.C. 20231 on October 16, 1997.

Date
By: Scott W. Kelley
Scott W. Kelley, Reg. No. 30,762
October 16, 1997
Date of Signature



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	Group Art Unit: 3205
)	
ROBERT R. REAVER, ET AL.	)	Examiner: Rowan, K.
)	
Serial No. 08/428,918)	
)	
Filed: April 25, 1995)	
)	
For: COMBINATION FLY)	
SWATTER AND INSECT)	
TRAP)	

Woodland Hills, California

SECOND SUPPLEMENTAL DECLARATION OF
ROBERT R. REAVER AND CAROL REAVER

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

1. As the below-named inventors, we hereby declare that:
2. Our residence, post office address and citizenship are as stated below next to our names.
3. We believe we are the original, first and joint inventors of the subject matter which is described and claimed in U.S. Patent No. 5,207,018, granted May 4, 1993, and in reissue patent application serial number 08/428,918 filed April 25, 1995.

EXHIBIT K

4. We hereby state that we have reviewed and understand the contents of the reissue patent application specification, including the claims.

5. We acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56.

6. We believe the original patent to be partly inoperative or invalid because of error without any deceptive intent on the part of the Applicants, by reason that we claimed less than we had a right to claim in the above-identified U.S. Letters Patent.

7. To recap the events which led to our discovery of the errors leading to this reissue application, since the issuance of U.S. Patent No. 5,207,018 on May 4, 1993, we have been actively designing and redesigning various models of combination fly swatters and insect traps which embody our invention, in order to find a design that could be economically manufactured.

8. To the point of filing the reissue patent application, we had designed ten different types of combination fly swatters and insect traps embodying our invention, but it wasn't until the ninth prototype that we discovered a particular design that could be mass-produced at a reasonable price to provide a product of acceptable quality.

9. Neither my wife nor I were familiar with the various molding techniques available to manufacture a combination fly swatter and insect trap of the present invention at the time our original patent No. 5,207,018 issued May 4, 1993. Subsequently, in connection with our development of the combination fly swatter and insect trap, we have learned a great deal, and determined that it is important that a product embodying our invention be capable of being mass-produced using vacuum thermoform molding methods. Prior to this

discovery on our part, we attempted to pursue manufacture of products embodying our invention requiring injection molding techniques. The mold expense (\$20,000.00 to \$30,000.00) is too great for this particular product. However, vacuum thermoform machines are available today, as we have learned during our investigation, that require only a few thousand dollars in tooling to produce a high quality of product in a short amount of time at a competitive price.

10. After settling upon a design embodying our invention that can also be manufactured using vacuum thermoform molding techniques, Robert R. Reaver met with our patent attorney, Scott W. Kelley, Esq., on February 16, 1995 to compare the claims of our patent No. 5,207,018 against a new prototype. We were informed that none of our issued patent claims read literally on our new prototype.

11. In particular, our new prototype includes a planar closure member which cannot be characterized as "mesh". This limitation, however, is found in each of the issued claims. We believe that requiring devices embodying our invention to have a "mesh" closure member would needlessly and prohibitively increase the cost of the end product.

12. During our meeting with Mr. Kelley we were also informed that the recitation of "a rear slide clamp" might be interpreted too narrowly in view of our new prototypes, although these prototypes include functionally equivalent structure. We were advised that language such as "rear slide clamp means on the rear end portion of the closure member through which the handle slidably extends" more clearly and directly reads on our new prototypes, wherein the rear end portion of our molded closure member actually provides the clamp onto the handle, rather than a separate member.

13. As a result of our discussions with Mr. Kelley we decided that the issued claims contained mistakes that unnecessarily limited their scope and that it would be important to make relatively minor adjustments to our patent claims to ensure that product embodying our invention is clearly covered and protected by our patent. We, therefore, authorized the preparation and filing of this application.

14. Between February 16, 1995 and the filing of the reissue patent application, we became convinced that the limitation of the "mesh" closure member was unnecessary to the invention, that such a limitation was included due to an oversight by both of us, and that this constituted a mistake of sufficient magnitude to warrant the filing of a reissue application. Additionally, and also during this time period, we became convinced that the recitation of "a rear slide clamp attached to the rear end portion of the mesh closure member, having a central notch through which the handle slidably extends" could be interpreted so as to not literally cover our new prototype embodying the invention, and that it would be desirable to correct the claim language as set forth in paragraph 12 above. Moreover, and also during the time period between February 16, 1995 and the filing date of the reissue application, while reviewing the issued patent claims we decided that "track means" was a more desirable and broader term to use in the claims than "a track", and that claim 8 contained a typographical error requiring substitution of the word --placed-- for "place".

15. Accordingly, claims 1, 3, 4, 5, 8, 9, 13, 17 and 18 of the original issued U.S. Patent No. 5,207,018 have been changed as follows (reference to line numbers are to the line numbers of the claims appearing in the issued patent):

Claim 1. A hand held fly swatter apparatus capable of being configured to capture insects alive from given surfaces to allow their subsequent disposal, the apparatus comprising:

an elongate handle having a rear end intended to be grasped by a user, and a front end;

a rigid housing attached to the front end of the handle and defining an insect trap compartment having a large aperture through which an insect is placed within the insect trap compartment, the housing including an upper wall and interconnected side walls extending downwardly to define the compartment aperture, and [a] track means positioned adjacent to an edge of the compartment aperture;

a planar [mesh] closure member supported [within] by the track means and slidable between a retracted position to permit access to the insect trap compartment through the compartment aperture, and an extended position wherein the [mesh] closure member covers the compartment aperture, wherein the housing and the [mesh] closure member, in its extended position, cooperatively provide a fly swatter; and

means for slidably supporting a rear end portion of the [mesh] closure member relative to the handle, including [a] rear slide camp means on [attached to] the rear end portion of the [mesh] closure member [, having a central notch] through which the handle slidably extends.

In claim 3, line 2, --means-- is inserted after "track"; and on line 5, "mesh" is deleted.

In claim 4, line 2, "mesh" is deleted.

In claim 5, line 3, --means-- is inserted after "track".

Claim 8. An apparatus as set forth in claim 1, wherein the housing includes a projection extending rearwardly from the insect trap compartment, which projection supports a portion of the track means designed to support a front

Serial No. 08/428,918

end portion of the [mesh] closure member when [place] ~~placed~~ in its retracted position.

In claim 9, lines 20, 29 and 32, each occurrence of "mesh" is deleted.

In claim 13, line 2, "mesh" is deleted.

In claim 17, lines 15, 19, 21, 27 and 30, each occurrence of "mesh" is deleted.

In claim 18, line 5, "mesh" is deleted.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements or the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first, joint inventor: Robert R. Reaver

Inventor's signature: 

Date: October 15, 1997

Residence: San Dimas, California

Citizenship: UNITED STATES OF AMERICA

Post Office Address: 1643 Avenida Loma Vista
San Dimas, California 91773

Serial No. 08/428,918

Full name of second, joint inventor: Carol Reaver

Inventor's signature: 

Date: October 15, 1997

Residence: San Dimas, California

Citizenship: UNITED STATES OF AMERICA

Post Office Address: 1643 Avenida Loma Vista
San Dimas, California 91773

RECEIVED
NOV 21 1997
KELLY, BAUERSFELD & LOWRY



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/428,918	04/25/95	REAYER	REAV-35008

SCOTT W KELLEY
KELLY BAUERSFELD AND LOWRY
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS CA 91367

C2M1/1119

EXAMINER	
ROWAN, K	
ART UNIT	PAPER NUMBER
3205	

DATE MAILED: 11/19/97

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

a) ☒ is extended to run 4 months or continues to run _____ from the date of the final rejection

b) ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed OCT. 20 has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:

- a. ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
- b. ☐ They raise new issues that would require further consideration and/or search. (See Note).
- c. ☐ They raise the issue of new matter. (See Note).
- d. ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- e. ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE:

2. ☐ Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☒ Upon the filing an appeal, the proposed amendment ☒ will be entered ☐ will not be entered and the status of the claims will be as follows:

Claims allowed: _____
Claims objected to: _____
Claims rejected: 1-19

However;

☐ Applicant's response has overcome the following rejection(s): _____

4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because the fact that different models have been constructed after issuance of US 5,207,018 and we do not read on any of the patent claims is not an error in the original patent
5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☐ Other

EXHIBIT L

Kurt Rowan
KURT ROWAN
PRIMARY EXAMINER
GROUP 3200

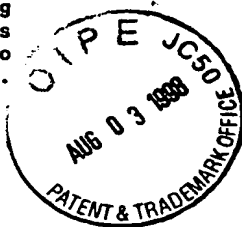
I hereby certify that this correspondence being deposited with the United States Postal Service as first class mail in an envelope addressed to Assistant Commissioner for Patents, Washington, D.C. 20231 on June 10, 1998.

Date

By: Scott W. Kelley, Reg. No. 30,762

June 10, 1998

Date of Signature



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	Group Art Unit: 3616
)	
ROBERT R. REAVER, ET AL.	)	Examiner: Rowan, K.
)	
Serial No. 08/428,918)	
)	
Filed: April 25, 1995)	
)	
For: COMBINATION FLY)	
SWATTER AND INSECT)	
TRAP)	

Woodland Hills, California
June 10, 1998

STATUS LETTER

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Please advise us of the status of the above-identified patent application. Applicant's attorney last discussed this case with Examiner Rowan on December 11, 1997.

Respectfully submitted,

KELLY BAUERSFELD LOWRY & KELLEY, LLP

By: Scott W. Kelley

Scott W. Kelley
Reg. No. 30,762
Attorney for Applicant

SWK:sbn
Enclosure
6320 Canoga Avenue, Suite 1650
Woodland Hills, CA 91367
(818) 347-7900

EXHIBIT M